महाराष्ट्र शासन
सामान्य प्रशासन विभाग,
मंत्रालय विस्तार इमारत,
हुतात्मा राजगुरू चौक, मादाम कामा मार्ग,
मंत्रालय, मुंबई ४०० ०३२.

दूरध्वनी क्र -०२२.२२०२५३३३
Email ID **desk16a.gad-mh@gov.in**

क्रमांक : दिव्यांग २०१५/प्र.क्र.१७१/१६-अ दिनांक : १४ ऑक्टोबर, २०२१

प्रति,

सर्व अपर मुख्य सचिव/प्रधान सचिव/सचिव,
मंत्रालयीन प्रशासकीय विभाग,
मंत्रालय, मुंबई.४०००३२

विषय : मा. उच्च न्यायालय, मुंबई येथील रिट याचिका स्टँप क्र. ६८१९/२०२१ व इतर प्रकरणी - दिव्यांगांसहित इतर अधिकारी/कर्मचारी यांची गट अ व गट ब मधील पदांवर पदोन्नतीमधील आरक्षणाबाबतची माहिती देणेबाबत.

दिव्यांगांना गट-अ व गट-ब मधील पदांवर पदोन्नतीमध्ये आरक्षण देण्याबाबत मा. उच्च न्यायालय, मुंबई येथे रिट याचिका स्टँप क्र. ६८१९/२०२१ व इतर याचिका दाखल करण्यात आल्या आहेत. मा. उच्च न्यायालयामध्ये झालेल्या सुनावण्या व अंतरिम आदेश विचारात घेवून सामान्य प्रशासन विभागाने दि. ०५.०७.२०२१ रोजीच्या शासन निर्णयान्वये दिव्यांग अधिकारी / कर्मचाऱ्यांना गट अ व गट ब मधील पदांवर पदोन्नतीमध्ये आरक्षण देण्याबाबतचा धोरणात्मक निर्णय मा. मंत्रिमंडळाच्या मान्यतेने घेतला आहे. दिव्यांग आरक्षणाच्या धोरणाची अंमलबजावणी प्रभावीपणे होते आहे किंवा कसे याबाबत मा. उच्च न्यायालयाकडून सुनावणीदरम्यान वेळोवेळी आढावा घेण्यात येत आहे.

मा. उच्च न्यायालयाने दि.०८.१०.२०२१ रोजीच्या आदेशान्वये सर्व विभागांना (**विशेषत: सार्वजनिक बांधकाम विभाग, शालेय शिक्षण विभाग, जलसंपदा विभाग आणि पशु संवर्धन विभाग**) गट अ व गट ब मधील पदांवर दिव्यांगांसहीत (PWD) इतर अधिकाऱ्यांची (Non-PWD) पदोन्नतीची कार्यवाही लवकरात लवकर करण्याचे निर्देश दिले आहेत. (प्रत संलग्न) मा. उच्च न्यायालयाच्या आदेशाची अंमलबजावणी होण्याच्या अनुषंगाने विनंती करण्यात येते की, दि.०५.०७.२०२१ रोजी दिव्यांग आरक्षण लागू केल्यापासून गट अ व गट ब पदावरील दिव्यांगांसहीत (PWD) इतर अधिकाऱ्यांची (Non-PWD) पदोन्नतीबाबतची दि.३०.११.२०२१ पर्यंतची सद्यस्थितीची माहिती सोबतच्या विवरणपत्रानुसार मा. महाधिवक्ता यांना १० प्रतींत दि.०१.१२.२०२१ रोजी सायंकाळी ५.०० वाजेपर्यंत **तात्काळ** सादर करावी. सदर अहवालाची एक प्रत या विभागास वर नमूद ई-मेल वर पाठविण्यात यावी.

सदर पत्र महाराष्ट्र शासनाच्या www.maharashtra.gov.in या संकेतस्थळावर उपलब्ध असून त्यांचा संगणक संकेतांक २०२११०१४१७०६५६९१०७ असा आहे. हे पत्र डिजीटल स्वाक्षरीने साक्षांकित करुन काढण्यात येत आहे.

सोबत :- वरीलप्रमाणे.

आपला,

MADHUKAR
SARJERAO GHOGARE

Digitally signed by MADHUKAR SARJERAO GHOGARE
DN: c=IN, o=GOVERNMENT OF MAHARASHTRA, ou=GENERAL ADMINISTRATION DEPARTMENT, postalCode=400032, st=Maharashtra, 2.5.4.20=539635e59a0a994a979279d79261fa9f3f9070d1a37dfe29dbc4be5d1c827801, pseudonym=AC3147DBADAD7F4C4CB2DE528E143189B6FA5D3D, serialNumber=344B951816C517FCEA0454E21D7FDE25CC87830C180514DAFD445EC2BC6B50BF, cn=MADHUKAR SARJERAO GHOGARE
Date: 2021.10.14 17:09:36 +05'30'

(म. स. घोगरे)
अवर सचिव, महाराष्ट्र शासन

मा. उच्च न्यायालय, मुंबई येथे दाखल रिट याचिका स्टँप क्र. ६८१९/२०२१ व इतर प्रकरणी

मा. न्यायालयास सादर करावयच्या माहितीचे विवरणपत्र

STATUS REPORT OF PROMOTION ORDERS IMPLEMENTION GENERAL ADMINISTRATION DEPARTMENT G.R. 5.07.2021 AS ON 30.11.2021

Department Name -------------------

Government Order dated (पदोन्नती आदेश दिनांक)	Promotion from the post (मूळ पद)	Promotion to the post (पदोन्नतीचे पद)	Non P.W.D. (दिव्यांग रहित)	P.W.D. (Person with Disabilites) (दिव्यांग)	Total Posts एकूण
1	2	3	4	5	6

Signature

(Deputy Secretary / Joint Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO. 6819 OF 2021

Ajay Daulat Jadhav & Ors. … Petitioners
Vs.
State of Maharashtra through
General Administration & Ors. … Respondents

ALONGWITH
INTERIM APPLICATION NO.1306 OF 2021
IN
WRIT PETITION (STAMP) NO.6819 OF 2021

Ajay Daulat Jadhav & Ors. … Applicants
Vs.
State of Maharashtra & Ors. … Respondents

WITH
INTERIM APPLICATION (STAMP) NO.12028 OF 2021
IN
WRIT PETITION (STAMP) NO. 6819 OF 2021

State of Maharashtra
through its Principal Secretary … Applicant
Vs.
Ajay Daulat Jadhav & Ors. … Respondents

WITH
INTERIM APPLICATION (STAMP) NO. 11845 OF 2021
IN
WRIT PETITION (STAMP) NO. 6819 OF 2021

State of Maharashtra
through its Principal Secretary … Applicant
Vs.
Ajay Daulat Jadhav & Ors. … Respondents

WITH
WRIT PETITION (STAMP) NO. 58 OF 2021

Shri Anandrao Narayan More … Petitioner
Vs.
State of Maharashtra through
Its Chief Secretary & Ors. … Respondents

WITH
WRIT PETITION (STAMP) NO. 2081 OF 2021

Sachin Haridas Kapane … Petitioner
Vs.
State of Maharashtra through
General Administration Department,
Mantralaya & Ors. … Respondents

WITH
WRIT PETITION (STAMP) NO. 2941 OF 2021

Pranjal Pramod Patil & Ors. … Petitioners
Vs.
State of Maharashtra through
General Administration Department,
& Ors. … Respondents

WITH
WRIT PETITION (STAMP) NO. 4228 OF 2021

Gorakshnath Asaram Agale & Anr. … Petitioners
Vs.
State of Maharashtra through
General Administration Department,
Ors. … Respondents

WITH
WRIT PETITION (STAMP) NO. 6995 OF 2021

Milind Ganpat Kadam & Ors. … Petitioners
Vs.
State of Maharashtra & Ors. … Respondents

WITH
WRIT PETITION (STAMP) NO. 10077 OF 2021

Nandkumar Dashrath More & Ors. … Petitioners
Vs.
State of Maharashtra & Ors. … Respondents

WITH
WRIT PETITION NO. 2090 OF 2021

Krishna Piraji Jagtap … Petitioner
Vs.
State of Maharashtra & Ors. … Respondents

WITH
WRIT PETITION (STAMP) NO. 11573 OF 2021

Association of Sub Ordinate Service of
Engineers & Ors. … Petitioners
Vs.
State of Maharashtra & Ors. … Respondents

WITH
CONTEMPT PETITION (STAMP) NO. 11751 OF 2021

Pranjal Pramod Patil & Ors. … Petitioners
Vs.
State of Maharashtra
Through General Administration
Department & Ors. … Respondents

WITH
WRIT PETITION NO. 2091 OF 2021

Vivek Vishwanath Patil … Petitioner
Vs.
State of Maharashtra & Ors. … Respondents

WITH
WRIT PETITION NO. 2092 OF 2021

Ashwini A. Ghodake & Ors. … Petitioners
Vs.
State of Maharashtra & Ors. … Respondents

WITH
CONTEMPT PETITION (STAMP) NO. 12001 OF 2021

Sanjaykumar Shashikant Kokane … Petitioner
Vs.
Sitaram Kunte, Chief Secretary of
State of Maharashtra … Respondent

WITH
INTERIM APPLICATION NO. 3798 OF 2020
IN
WRIT PETITION (STAMP) NO. 97023 OF 2020

Principal Secretary, Water Resources
Department, Mantralaya … Applicant
Vs.
Bholaso S/o. Vitthal Alias Vithu Chaugule … Respondent

WITH
INTERIM APPLICATION NO. 1307 OF 2021
IN
WRIT PETITION (STAMP) NO. 97023 OF 2020

Ankush Ashokrao Palve & Anr. … Applicants
Vs.
Sanjaykumar Shashikant Kokane & Ors. … Respondents

WITH
INTERIM APPLICATION NO. 1305 OF 2021
IN
WRIT PETITION (STAMP) NO. 97023 OF 2020

Sunil Mahadevrao Thakre ... Applicant
Vs.
Sanjaykumar Shashikant Kokane & Ors. ... Respondents

WITH
WRIT PETITION (STAMP) NO. 97023 OF 2020

Bhimashankar Mallinath Mitkare & Ors. ... Petitioners
Vs.
State of Maharashtra through
General Administration Department,& Ors. ... Respondents

WITH
INTERIM APPLICATION (STAMP) NO. 4375 OF 2021
IN
WRIT PETITION (STAMP) NO. 97030 OF 2020

Milind Ganpat Kadam & Ors. ... Applicants
Vs.
Bhimashankar Mallinath Mitkare ... Respondent

WITH
INTERIM APPLICATION NO. 3799 OF 2020
WITH
INTERIM APPLICATION NO. 3800 OF 2020

Bhagwan Rajabhau Khedkar & Ors. ... Applicants
Vs.
Bholaso S/o. Vitthal @ Vithu Chaugule ... Respondent

WITH
WRIT PETITION (STAMP) NO. 98060 OF 2020

Chintaman Gulabrao Vanjari … Petitioner
Vs.
State of Maharashtra through
General Administration Department,
& Ors. … Respondents

WITH
WRIT PETITION (STAMP) NO. 98876 OF 2020

Dhananjay Ambadas Patil … Petitioner
Vs.
State of Maharashtra through
General Administration Department,
& Ors. … Respondents

WITH
INTERIM APPLICATION NO.1990 OF 2021
IN
WRIT PETITION NO.13058 OF 2018

Bholaso S/o. Vitthal Alias Vithu
Chaugule & Ors. … Petitioners
Vs.
State of Maharashtra and ors. … Respondents

ALONGWITH
WRIT PETITION NO. 10955 OF 2016

Shri Rajendra Bhanudas Andhale … Petitioner
Vs.
State of Maharashtra through
the Under Secretary Rural Development and
Irrigation Department & Ors. … Respondents

ALONGWITH
WRIT PETITION (STAMP) NO. 13058 OF 2018

Bholaso s/o. Vitthal @ Vithu Chaugule … Petitioner
Vs.
State of Maharashtra through
Principal Secretary & Ors. … Respondents

WITH
INTERIM APPLICATION NO. 770 OF 2021
IN
WRIT PETITION NO. 13058 OF 2018

Shri Bhalaso s/o. Vitthal @ Vithu Chaugule … Applicant
Vs.
State of Maharashtra … Respondent

WITH
INTERIM APPLICATION (STAMP) NO. 12027 OF 2021
IN
WRIT PETITION NO. 13058 OF 2018

State of Maharashtra through
Principal Secretary & Ors. … Applicants
Vs.
Bholaso S/o. Vitthal Alias Vithu
Chaugule & Ors. … Respondents

WITH
INTERIM APPLICATION NO. 394 OF 2021
IN
WRIT PETITION NO. 13058 OF 2018

Pranjal Pramod Patil … Applicant
Vs.
Bholaso S/o. Vitthal Alias Vithu Chaugule … Respondent

AND
CONTEMPT PETITION (STAMP) NO. 92 OF 2021

Chintaman Gulabrao Vanjari … Petitioner
Vs.
Sanjay Kumar, Chief Secretary … Respondent

………..

Mr. B. M. Chatterji, Senior Advocate alongwith Mr. Nikhil Waje, Mr. Vishesh Srivastav, Advocates for the Applicant/Petitioner in IA No. 1306 of 2021 in Writ Petition (Stamp) No.6819 of 2021.
Mr. Abhijeet Desai alongwith Mr. Amol Jagtap, Advocates for the Petitioner in Writ Petition (Stamp) No.6995 of 2021.
Mr. Yashodeep Deshmukh alongwith Ms. Vaidehi Deshmukh, Ms. Sonali Pawar and Ms. Kinjal Kanani i/by Mr. Akshay R. Kapadia, Advocates for the Petitioners in Writ Petition (Stamp) No.11573 of 2021 and Writ Petition No.2092 of 2021.
Mr. Anoop U. Patil, Advocate for the Petitioner/Applicant in Writ Petition (Stamp) No.97023 of 2020 and IA No.1305 of 2021.
Mr. Balasaheb Deshmukh for the Intervenors in I.A. Nos.3799 of 2020 and 3800 of 2020 in WP No.13058 of 2018.
Dr. Uday Warunjikar, Senior Advocate i/by Mr. Vinod Sangvikar, Advocate for the Petitioner and Applicant in Writ Petition No.13058 of 2018 with I. A. No.770 of 2021 & IA No.1990 of 2021.
Mr. Vinod Sangvikar a/w Ms. Vaishnavi Gholave, Advocates for the Petitioner in WP No.58 of 2021.
Mr. Tejesh Dande alongwith Mr. Bharat Gadhavi i/by M/s Tejesh Dande & Associates, Advocates for the Petitioners in Writ Petition (Stamp) No.2941 of 2021 and Contempt Petition (Stamp) No.11751 of 2021.
Mr. Sugandh B. Deshmukh, Advocate for the Petitioner in Contempt Petition (Stamp) Nos.92 of 2021, 12001 of 2021 and Writ Petition (Stamp) Nos.4228 of 2021, 10077 of 2021 and Writ Petition Nos.2090 of 2021, 2091 of 2021, Writ Petition Stamp No.97023 of 2020 with IA No.1307 of 2021, Writ Petition Stamp Nos.98060 of 2020 and Writ Petition No. 10955 of 2016.
Mr.Mahendra Shingade, Advocate for the Petitioner in WPST No. 2081 of 2021 and WPST No.98876 of 2020.
Mr. A. A. Kumbhakoni, AG alongwith Mr. P. P. Kakade, GP, Mr. Ashutosh Kulkarni, "B" Panel Counsel, Smt. A. A. Purav, AGP, with Smt. G. P. Sonawane, AGP for the Respondent-State.

CORAM : UJJAL BHUYAN &
MADHAV J. JAMDAR, JJ.
DATE : 8th OCTOBER, 2021

P.C.

Heard learned counsel for the parties.

2. On 14.09.2021, we had passed the following order :-

"Heard learned counsel for the parties.

2. Pursuant to our previous order dated 7th September, 2021, learned Advocate General has filed a signed statement dated 14th September, 2021 which we have perused.

3. At this stage, it may not be necessary to refer to in details contents of the said statement.

4. Suffice it to say that, according to Mr.Kumbhakoni, learned Advocate General, the process for undertaking promotion to both the categories of petitioners i.e. persons with disabilities and persons without disabilities is being undertaken presently. However, the process involves several stages and cannot be completed overnight.

5. He submits that majority of the litigation pertains to the Public Works Department and secretary of this department is personally present in court today. According to him, within a period of 3 to 4 weeks time the promotion exercise covering both the categories of petitioners *vis-a-vis* in Public Works Department should be complete.

6. It may be mentioned that in our order dated 22nd July, 2021 we had directed that the promotion orders/posting orders of both categories of petitioners be simultaneously carried out and the period prescribed for completion of the exercise was six weeks from 22nd July,

2021.

7. Though substantial progress has been made, the process is yet to reach finality.

8. Mr. Chatterji, learned senior counsel, Mr. Desai and Mr. Deshmukh, learned counsel appearing for those categories of petitioners who are persons without disabilities and awaiting for posting orders having been duly promoted in November, 2020, submitted that delay in giving effect to their due promotion by not issuing consequential posting orders is not at all justified. They therefore pray for issuance of time bound directions by the court for issuance of their posting orders on promotion.

9. Dr. Warunjikar, Mr. Sugandh Deshmukh and Mr. Patil learned counsel appearing for the persons with disabilities submit that if the present exercise had not been carried out by the court, the progress which have been achieved till date would not have materialized.

10. Be that as it may and without entering into merits of the rival contentions which we will deal with at the time of hearing each individual case, we direct the State of Maharashtra, more particularly in the Public Works Department to complete the promotion/posting exercise covering both categories of petitioners i.e. persons with disabilities and persons without disabilities within three weeks from today; in case of the persons without disabilities, to issue their respective posting orders as the concerned DPCs had already recommended their promotion.

11. This exercise should also be carried out simultaneously in the Education, Irrigation as well as in the Animal Husbandry Departments within the stipulated period.

12. Stand over to 5th October, 2021."

3. Mr. Kumbhakoni, learned Advocate General has placed before us a statement indicating status of promotion in the Public Works Department as on 07.10.2021. The status report comprises of three tables, Table-A, Table-B and Table-C. Table-A comprises of promotion from Superintending Engineer to Chief Engineer; Assistant Engineer Grade II to Sub Divisional Engineer (Civil); Civil Engineer Assistant to Junior Engineer (Civil) (20% quota) and Civil Engineer Assistant to Junior Engineer (Civil) (5% quota). Out of the total 272 posts available for such promotions, 254 persons without disabilities have been promoted across the cadres and 11 persons with disabilities have been promoted, total 265. Learned Advocate General has clarified that in respect of these 265 officers not only they have been promoted but promotion orders include postings as well.

4. Insofar Table-B is concerned, it includes promotion from the cadre of Executive Engineer (Civil) to Superintending Engineer (Civil); Assistant Engineer Grade-II to Deputy Engineer (Degree Holder) (Electrical); and Deputy Engineer (Degree Holder) (Electrical) to Executive Engineer (Degree Holder) (Electrical). Out of the total 56 posts available for such promotion, the promotional exercise has reached final point and includes 51 officers out of whom one belongs to persons with disabilities. Learned Advocate General submits that approval of the appointing authority in all the cases is required and that would be obtained without much loss of time.

5. Table-C comprises of promotion from Deputy Engineer (Civil) to Executive Engineer (Civil); Assistant Engineer Grade-II to Sub Divisional Engineer; Sectional Engineer to Sub Divisional Officer; Zilla Parishad Sectional Engineer (Diploma Holder) to Sub Divisional Officer; and from Zilla Parishad Sectional Engineer (Degree Holder) to Sub Divisional Engineer. Out of the total 642 posts available for such promotion, the promotional exercise has been carried out covering 636 officers which includes 24 with disabilities and 612 without disabilities.

6. Mr. Kumbhakoni, learned Advocate General submits that in respect of these categories of officers (Table-C), select list for promotion was approved on 04.10.2021. Revenue region-wise allotment choices have been called for from the officers on 04.10.2021. Choice forms are awaited. He further submits that in respect of 141 officers who were promoted in November, 2020 without posting orders the select list had to be recast because of entry of 24 officers who are persons with disabilities. However, he submits that seniority of these 141 officers will be taken into account from the dates of their promotion from November 2020.

7. Mr. Beni Chatterjee, learned senior counsel representing these 141 officers submits that choice forms were filed by these officers pursuant to their promotional orders in November, 2020. Therefore, no fresh choice forms from such officers are required.

8. After some confabulation with the departmental officer who is present in Court, learned Advocate General submits that respondents will

accept the choices submitted by these 141 officers in November, 2020.

9. Mr. Sugandh Deshmukh, learned counsel representing the persons with disabilities submits that choice forms from 24 officers having disabilities covered by Table-C should also be obtained and thereafter only the posting orders should be issued to all. He submits that if the choice forms of the 141 officers submitted in November, 2020 are only considered, this may adversely affect posting of persons with disability.

10. After hearing the matter at some length and on due consideration, we direct that the choice forms of the 141 officers submitted in November, 2020 shall be taken into account by the respondents. Choice forms from the 24 officers with disabilities shall be obtained within seven days from the date of receipt of a copy of this order whereafter promotion with posting orders shall be issued to the 636 officers covered by Table-C within a period of two weeks from the date of receipt of a copy of this order.

10.1. Insofar the promotional exercise covered by Table-B is concerned, let the promotional and posting orders be issued within the aforesaid period of two weeks.

11. In respect of Irrigation Department (Water Resources Department), Mr. Kumbhakoni, learned Advocate General has placed before us status report as on 06.10.2021. The status report covers promotion from Executive Engineer (Civil) to Superintending Engineer (Civil) down to Assistant Engineer Grade-II/Junior Engineer/Section Engineer to Deputy Engineer (Electric). He submits that in all promotions

have been made to 290 posts which include 274 officers without disabilities and 16 with disabilities. Not only promotion orders have been issued but posting orders of all the 290 promotee officers have also been issued.

12. In addition to the above, process for promotion to 129 promotional posts is underway in which 123 are persons without disabilities and 6 are persons with disabilities.

13. Let the promotional exercise in respect of these 129 officers be expedited and carried out out as early as possible.

14. In respect of Animal Husbandry Department, learned Advocate General has submitted status report as on 05.10.2021. As per the status report, a total of 80 officers are being considered for promotion from Livestock Development Officer Grade-A to Assistant Commissioner of Animal Husbandry and from Assistant Commissioner of Animal Husbandry Group-A to Deputy Commissioner of Animal Husbandry Group-A. As pointed out, a total of 80 officers are being considered which includes 76 without disabilities and 4 with disabilities.

15. Mr. Kumbhakoni has informed us about the various stages this process has to go through. Presently, the matter is before the General Administration Department for approval. Once the approval is obtained, choices will be invited from the concerned officers for their posting on promotion. Finally, the Civil Services Board will issue recommendations to the appointing authority for issuance of promotional and posting order. He

further submits that the end is in sight in respect of Animal Husbandry Department.

16. Like the Irrigation Department (Water Resources Department), we also direct that in respect of Animal Husbandry Department the process be expedited and consequential promotion order/posting order be issued as early as possible.

17. Insofar the School Education Department is concerned, learned Advocate General has placed before us a status report and submits therefrom that most of the teachers and school staff are under local bodies and not directly under the control of the State Government. It has been found that service book of such teachers and staff have not been properly maintained creating difficulties at the time of retirement leading to delay in payment of pension etc.. He further submits that Government has decided to carry out a comprehensive exercise for updating the service books of all such teaching and non-teaching staff of the schools.

18. On a query by the Court, he submits that the process of promotion will require about two and half months time.

19. At this stage, Mr. Sugandh Deshmukh, learned counsel submits that insofar promotions from Education Officer to Deputy Director is concerned, the problem expressed by the learned Advocate General may not have a relevance. Therefore, time bound directions may be issued by the Court.

20. We find that there are other posts also which may not be under the local bodies, such as Joint Director of Education, Deputy Director of Education and Deputy Education Officer etc..

21. Learned Advocate General submits that splitting up cadres for the purpose of promotion may not be a viable option as it may lead to complications and further delay. It is in the interest of teaching and non-teaching staff that before carrying out the promotion exercise their service books are updated.

22. Having regard to the above, we direct that in respect of School Education Department, let the process of promotion be expedited and taken to its logical conclusion within the outer limit of eight weeks.

23. No further order is called for at this stage.

24. Stand over to 03.12.2021.

MADHAV J. JAMDAR, J **UJJAL BHUYAN, J**